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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,710	02/01/2000	Andress Sommer	P66.2717	5203

- 7590 12/04/2003

SCHIFF HARDIN & WAITE
PATENT DEPARTMENT
7100 SEARS TOWER
CHICAGO, IL 60606-6473

EXAMINER

SONG, HOON K

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/495,710	Applicant(s) SOMMER, ADDRESS	
	Examiner Hoon Song	Art Unit 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al. (US 5848126) in view of Kok (US 3803417).

Regarding claims 1-2 and 4, Fujita teaches a computed tomography apparatus comprising:

a gantry having a measuring opening (figures 1 and 23a);

an x-ray source mounted in said gantry having a focus from which radiation is emitted, at least said focus rotating around said measuring opening for irradiating an examination subject from different directions (figures 1 and 23a);

a detector disposed in said opening for obtaining projection datasets corresponding to radiation incident on said detector as said focus rotates around said measuring opening (figures 1 and 23a);

a support table having a support plate, adapted to receive an examination subject thereon, and a carrier, said support plate being mounted cantilevered to said carrier; and a mechanism for moving said gantry independently of said support table, including movement of said gantry into a use position wherein said support plate extends through said measuring opening (figures 1 and 23a).

However, Fujita fails to teaches that the support plate being non-displaceable mounted.

Kok teaches the support plate (17) being non-displaceably mounted (figure 1) and said movable carrier comprises a floor stand (16).

In view of Kok, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to adopt the non-displaceable mount in order to position a patient between the x-ray and detector for whatever medical procedure is to follow (column 3 line 65+). Accordingly, one would be motivated to adopt the non-displaceable mount because it would eliminate movement mechanism of the support plate since the source and detector pair is independently moved to position the patient in between (figure 1 and column 3 line 65+).

Regarding claim 5, Fujita teaches that said support table has a longitudinal axis and wherein said gantry has a system axis, and wherein said support table is positionable (25) relative to said gantry so that said longitudinal axis and said system axis, when projected into a horizontal plane, intersect when said gantry is in said use position (figure 1 and 23a).

Regarding claim 6, Fujita teaches that said gantry has a system axis and further comprising a motor drive (85) for moving said gantry along said system axis to allow scanning of a volume of an examination subject adapted to be received on said support plate in said measuring opening (figure 25).

Regarding claim 7, Fujita teaches that said mechanism comprises rails (17) along which said gantry is movable (figure 1).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita as modified by Kok as applied to claim 1 above, and further in view of Barth (US 6125163).

Regarding claim 3, Fujita as modified by Kok fails to teach that the carrier comprises a ceiling stand.

Barth teaches the ceiling stand (10, figure 7)

In view of Barth, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to adopt the ceiling stand in order to support a patient (column 5 line 15+). Accordingly, one would be motivated to adopt the ceiling support because it would eliminate obstacle under the support plate since the source and detector pair is positioned to accept the patient in between (figure 7).

Response to Arguments

Applicant's arguments filed on August 14, 2003 have been fully considered but they are not persuasive.

In response "however, Fujita merely teaches" (page 3, line 4-5 of the previous action). It was a typographic error and now fixed to "fails to".

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

In this case, the applicant's independent claim is only directed to a mechanism for moving the gantry to the position where patient on a supporting plate, and regardless of a gantry having "open" or "closed" structure, the gantry of both Fujita and Kok reference are only moving in direction of axis of patient from head to toe. Thus, one having ordinary skill in the art would be motivated to adapt Kok's non displaceable supporting plate in order to provide simple patient supporting structure while the supporting plate is providing enough space for either closed or open gantry system to move from head to toe of the patient.

In response to argument for claim 3, One would be motivated to adopt the ceiling support because it would eliminate obstacle under the support plate since the source and detector pair is positioned to accept the patient in between (figure 7) while the non-displaceable support plate enough path for either "closed" or "opened" gantry to move.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoon K Song whose telephone number is 703-308-2736. The examiner can normally be reached on 8:30 AM - 5 PM, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on 703-305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4858 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Hoon K. Song

HKS


DAVID V. BRUCE
PRIMARY EXAMINER